

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Yuki HORII et al. : **Mail Stop: ACCOUNTING DIVISION**
Serial No. 10/530,927 : **REFUND BRANCH**
Filed April 8, 2005 : Attorney Docket No. 2005_0609A
INFORMATION PROCESSOR : **Confirmation No. 9481**

REQUEST FOR REFUND

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully request a 100% refund of the extension fees of \$1,110.00 that were paid on April 8, 2009, along with the filing of a response to the Office Action dated on October 8, 2008. The refund is requested because of the failure to receive the Office Action dated October 8, 2008, which resulted in the Applicants having to pay the extension fees.

The undersigned became aware of the Office Action during a routine status check (i.e., a check of the PAIR system on the PTO website). The status check was conducted on Friday April 3, 2009. Given that the undersigned had no record of ever receiving the Office Action, the Examiner's Supervisor and the Office of Petitions were contacted in an attempt to have a new Office Action issued (i.e., thereby resetting the time period for response) on Monday April 6, 2009. The request for a new Office Action was denied, but the Office of Petitions did suggest that a refund for payment of the extension fees be requested.

The Applicants provide the following evidence that the Office Action dated October 8, 2008 was never received by the undersigned, thereby justifying the requested refund.

The undersigned's docket, the undersigned's secretary's docket, and a computerized docketing system are maintained separately for monitoring all correspondence received from the United States Patent and Trademark Office (PTO). When correspondence (e.g., an Office Action or Notice of Allowance) from the PTO is received by Wenderoth, Lind & Ponack (WL&P), it is matched to the corresponding WL&P file and the receipt of the correspondence is recorded on

the face of the WL&P file (submitted as **Exhibit "A"**). **The face of the WL&P file shows no indication of the Office Action dated October 8, 2008, which would have been written on the left-hand column under "PTO COMMUNICATIONS."**

All PTO correspondence is then reviewed and the type of correspondence and the initial due date for responding to the correspondence, as well as any possible extensions, are entered into the computerized docketing system (by Pamela Veazey or one of the two individuals she supervises). The computerized docketing system cross-references each patent application by WL&P matter number, PTO serial number, title, client name, and last name of the first inventor. The computerized docketing system is used to generate and print out a daily report for each responsible attorney/agent.

The daily report lists all PTO applications that have responses to communications due on that date (submitted as **Exhibit "B"**). The daily report also indicates what, if any, extensions are available for responding to the communication. The daily report is manually handed out to each attorney/agent and secretary team for review. Each item on the report is indicated as either to be filed on that day or extended, if available, and the report is returned so that this information can be used to update the status in the computerized docketing system. **As can be seen from the attached daily report there is no indication of the Office Action dated October 8, 2008, which if received would have listed a response due on January 8, 2009.**

The undersigned, as well as the undersigned's secretary, both separately review all PTO correspondence. The undersigned handwrites the PTO serial number, the last name of the first inventor, and the type of correspondence in the appropriate space in his docket for the date that the response to the correspondence is initially due. The undersigned's secretary similarly handwrites the PTO serial number, the last name of the first inventor, and the type of correspondence in her docket book on the appropriate page for the date that the response to the correspondence is initially due (submitted as **Exhibit "C"**). In this way, the receipt of PTO correspondence and associated due dates for responding to the correspondence are entered into a triple redundant docketing system. **As can be seen from the attached docket book there is no indication of the Office Action dated, October 8, 2008, which if received would have listed a response due on January 8, 2009.**

In light of the above general discussion, it is submitted that sufficient evidence has been provided to support a finding that the docketing system at WL&P is sufficiently reliable and that

the Office Action dated October 8, 2008 was never received by WI&P or the undersigned. As a result, it is respectfully requested that the requested refund be granted.

Kindly credit the refund of \$1,110.00 to the deposit account of undersigned, no. 23-0975. If there are any questions regarding this matter, please contact Kim Hubbard, Accounting Assistant, at (202) 721-2855.

Respectfully submitted,

Yuki HORII et al.

/Mark D. Pratt/

By 2009.05.29 16:08:33 -04'00'

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May 29, 2009

2005_0609A

ATTORNEY

FILE NO 2005 06074

MDP

(Small Entity Stamp)

WENDEROTH, LIND & PONACK

003-95401

HORI

PCT

Ser. No. 10/530,927 Patent No.

INVENTORS <u>YUKI HORII</u> <u>OSASHI KAWAKAMI</u> <u>OSASHI WAKI</u>	CLIENT <u>OGASAWARA</u> Client No. <u>1413</u> Client Ref. <u>FP-2007pdt</u> FILED (Date) <u>4-8-05</u> Indep / Clms <u>2</u> Dep / Clms <u>6</u> Drawings / Figures <u>52/1-95</u> DECLARATION (Date) <u>3-30-05</u> Filed with Application? (X) Yes () No ALLOWED (Date) _____ ISSUE FEE PAID (Date) _____ ISSUED (Date) _____ Docketed for Maintenance Fees _____ / _____ Date _____ Ints _____
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FILE INFORMATION PROCESSOR

1.53(b) NEW APPLN. CONVENTION _____ () 1.53(b) NEW APPLN. NON-CONVENTION _____	
1.53(b) () CA () DIV () OIP () PARENT S.N. _____, FILED _____ STATUS _____	
1.53(c) PROVISIONAL APPLICATION () 1.53(d) CPA _____ FILED <u>Oct 9.02</u>	
1.53(e) PCT NATIONAL STAGE OF _____	
1.53(f) Filed Without Fee _____ 1.53(g) Filed in Foreign Language _____	Reissue of U.S.P. _____ PCT No. <u>PCT/JP2003/12932</u>

SIGNED TO: <u>Matsushita Electric Industrial Co., Ltd</u>				
<u>3-30-05</u>	<u>4-8-05</u>	<u>4/8/05</u>	<u>017/091</u>	<u>971-973</u>
EXECUTED	FILED	RECORDED	REEL	FRAME

SIGNED TO:				
EXECUTED	FILED	RECORDED	REEL	FRAME

PTO COMMUNICATIONS			PTO FILINGS		
MAIL DATE	TYPE ACTION	DUE DATE	DATE STAMP	DATE FILED	PAPERS FILED
<u>Mar 15 2005</u>	<u>Mail Order</u>	<u>1-5-05</u>	<u>Mar 15 2005</u>	<u>3-16-06</u>	<u>Resubmission of Assign</u>
<u>10-5</u>	<u>3-MO</u>	<u>1-5-05</u>		<u>1-7-08</u>	<u>Amendment</u>
<u>3-4</u>	<u>3-MO</u>	<u>6-4</u>		<u>2-4-08</u>	<u>Amendment</u>
<u>6-20</u>	<u>adv act</u>			<u>7-7-08</u>	<u>Amendment 100.007</u>
				<u>9-25-08</u>	<u>Supplemental Amend</u>
				<u>10-7-08</u>	<u>IDS/1449</u>
				<u>4-8-09</u>	<u>Amendment 3 EOT</u>

DUE	ATTY1/ATTY2 PARA	REFERENCE#	TITLE / MARK	CLIENT	INVENTOR	REG/SERIAL #	ACTION	CURRENT EXT	EXT AVAILABLE
July '08									
08 Tue	MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi	VENDRAMELLI, O	(CA) 2,503,951	REQUEST TICKLER	0	None
08 Tue	MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi	VENDRAMELLI, O	(CA) 2,503,951	ANNUITY DUE TICKLER	1	None
September '08									
08 Mon	MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi	VENDRAMELLI, O	(CA) 2,503,951	REQUEST EXAMINATION	0	None
08 Mon	MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi	VENDRAMELLI, O	(CA) 2,503,951	ANNUITY DUE	1	None
October '08									
09 Thu	MDP/MDP/MDP	2005-0977A	METHOD AND DEVICE O	I PROC. Panasonic Co	Kawahara, isao	(US) 7,418,152	proof f&c	0	None
November '08									
22 Sat	MDP/MDP/MDP	2006-1989	IMAGE PREDICTIVE COD	Aoyama & Partners	SHEN, Sheng Mei	(US) 7,437,008	proof f&c	0	None
27 Thu	MDP/MDP/MDP	2003-0392a	OPTICAL DISC AND REP	Aoyama & Partners	SHOJI, Mamoru	(US) 10,381,106	NOTICE OF APPEAL	2	None
30 Sun	MDP/MDP/MDP	2003-1213A	GROUP FORMATION MA	Nakajima & Associate	MATSUZAKI, Natsume	(US) 7,441,117	proof f&c	0	None
December '08									
06 Sat	MDP/MDP/MDP	2006-1987	image pridictive cooling met	Aoyama & Partners	SHEN, Sheng Mei	(US) 7,444,029	proof f&c	0	None
17 Wed	MDP/MDP/MDP	2004-1692A	ASK DEMODUALTION DE	Ogasawara Patent Offi	MIYANAGA, Kenji	(US) 7,450,666	proof f&c	0	None
January '09									
03 Sat	MDP/MDP/MDP	2004-2038A	Information Processing Ap	I PROC. Panasonic Co	TANIGUCHI, Hisashi	(US) 7,457,975	proof f&c	0	None
04 Sun	MDP/MDP/MDP	2005-1692A	TERMINAL APPARATUS	Ogasawara Patent Offi	YAMAGUCHI, Tsuyoshi	(US) 7,460,555	proof f&c	0	None
08 Thu	MDP/MDP/MDP	2002-0904A	A MEATHOD OF PRODUC	Nakajima & Associate	YOKOTA, Kaoru	(US) 10,196,410	RESPONSE TO OA	<i>abandoned</i>	Ext/1 Mnth
08 Thu	MDP/MDP/MDP	2003-0858a	RECORDING APPARATU	Nakajima & Associate	MATUURA, Yasuyuki	(US) 10,602,882	FINAL REJECTION	<i>7/1/09</i>	3 Ext/

END OF REPORT

TOTAL ITEMS SELECTED =

EXHIBIT B

JANUARY

8

THURSDAY

2009

8th day - 357 days follow

~~2008-090414 VolCota: 10/19/08, 410 04~~
~~Abandoned 11-4-08~~

~~2008-09588 Matsura 10/16/08 550 filed 1-8-09~~
~~2008-09588 Matsura 10/16/08 552~~